

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

WILLIAM ROGER McNEILL	§	PETITIONER
	§	
v.	§	CAUSE NO. 1:07CV461 LG-RHW
	§	
PRESTON GOFF, WARDEN	§	RESPONDENT

**ORDER ADOPTING PROPOSED FINDINGS OF FACT AND
RECOMMENDATIONS GRANTING RESPONDENT'S MOTION TO DISMISS**

This cause comes before the Court on the Proposed Findings of Fact and Recommendations of United States Magistrate Judge Robert H. Walker entered in this cause on August 7, 2007. Magistrate Judge Walker reviewed the Respondent's Motion to Dismiss [6] as well as the Petitioner's response and determined that the Motion to Dismiss should be granted for Petitioner's failure to file his Petition within the one-year statute of limitations provision of the AEDPA, 28 U.S.C. § 2244(d)(1).

After requesting and receiving a thirty-day extension of time in which to file his objections to the Proposed Findings of Fact and Recommendations, Petitioner filed a Motion to Amend/Correct Petition for Writ of Habeas Corpus [14], which is opposed by the Respondent [15]. In his Motion to Amend/Correct, Petitioner argues substantive grounds for his habeas corpus petition, but does not address the statute of limitations bar discussed by Magistrate Judge Walker.

When any party objects to Proposed Findings of Fact and Recommendations, the Court must review it de novo. *See Kreimerman v. Casa Veerkamp, S.A. de C.V.*, 22 F.3d 634, 646 (5th Cir. 1994); *Longmire v. Guste*, 921 F.2d 620, 623 (5th Cir. 1991). Such a review means that the Court will examine the record and make an independent assessment of the law. The Court need not, however, conduct a de novo review when the objections are frivolous, conclusive, or general

in nature. *Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

If Petitioner's filings in regard to his Motion to Amend/Correct Petition for Writ of Habeas Corpus are construed as Petitioner's objections to the Proposed Findings of Fact and Recommendations, then the objections are frivolous. Petitioner offers neither argument nor evidence to establish that the Magistrate Judge's thorough analysis and conclusion regarding the statute of limitations was incorrect. Therefore, this Court will not conduct a *de novo* review as to Petitioner's petition. *Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987) (holding in part that a Court need not conduct a *de novo* review when objections are frivolous, conclusive, or general in nature). Instead, the Court need only review the Proposed Findings of Fact and Recommendations and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). The Court finds that the Proposed Findings of Fact and Recommendations is neither clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that the Proposed Findings of Fact and Recommendations [11] of United States Magistrate Judge Robert H. Walker entered in this cause on August 7, 2007, should be, and the same hereby is, adopted as the finding of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that Respondent's Motion to Dismiss [6] is granted and Petitioner's 28 U.S.C. § 2254 habeas corpus petition is **DISMISSED** as time-barred.

SO ORDERED AND ADJUDGED, this the 28th day of September 2007.

s/ Louis Guirola, Jr.
Louis Guirola, Jr.
United States District Judge